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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/655,332
	Filing Date	September 4, 2003
	First Named Inventor	Hank Gevedon
	Art Unit	3644
	Examiner Name	Susan C. Alimenti
Total Number of Pages in This Submission	Attorney Docket Number	946-001

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Election/ Response to Restriction
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	STOCKWELL & ASSOCIATES, Customer No. 37468
Signature	<i>Don Turner</i>
Date	Aug 26, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
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Application No.: 10/655,332

Attorney Docket No.: 946-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Hank Gevedon

Application No.: 10/655,332

Group Art Unit: 3644

Filed: October 03, 2003

Examiner: Alimenti

For: CAST PRACTICE FISH

ELECTION

Mail Stop: Election/Response to Restriction Requirement
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement mailed August 4, 2004, Applicant submits the following Election.

Applicant hereby elects, **without traverse**, the invention identified by the Examiner as Species 5.1 (active), Species 6.B (IR lure), and Species 8.i (automated or programmed mode) for initial prosecution. Applicant hereby elects, **with traverse**, Species 7.a (bone fish), and Species 9.AA (frequency) for initial prosecution.

Applicant believes that claims 1-13, 15-23, 28-31, 33-47, and 49-51 read on these elected species, and awaits an action on the merits on these elected claims.

Applicant elects Species 7.a (bone fish) and Species 9.AA (frequency) **with traverse** for the following reasons. According to M.P.E.P. §816:

"[t]he particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given."

The Examiner provided no basis or reasons for holding that the bonefish species is independent or distinct from the bass fish species. The Examiner also provided no basis or reasons for holding that the frequency species is independent or distinct from the amplitude species. The applicant believes this designation of species to be noncompliant with M.P.E.P §816, being defective for lack of specificity. As such, without the benefit of the Examiner's explanations as to the basis for these species designations, Applicant finds it difficult to frame an appropriate response.

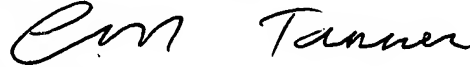
Applicant is **not** asserting that the separate bonefish and bass fish species, and separate amplitude and frequency species, are obvious variants of or patentably indistinct from each other. Nor is Applicant asserting that the claims directed to this subject matter be considered obvious variants or patentably indistinct from each other. Under no circumstances should this Election with traverse and corresponding remarks be read as an accession or admission to such an inaccurate conclusion. Rather, Applicant is asserting that a proper response to the restriction requirement cannot be framed because the applicant does not have the benefit of the Examiner's reasons, to which Applicant is entitled under M.P.E.P. §816.

Additionally, the Examiner has not made the required showing that the designated species entail either separate classification, separate status in the art, or require a different field of search. To insist upon restriction, the Examiner **must show** these criteria (M.P.E.P. §808.02, emphasis added). This burden has not been met. Consequently, Applicant believes the above-referenced Sections 7 and 9 of the restriction requirement are improper, and hereby requests that the Examiner withdraw them accordingly.

If there are any problems with this Election, the Examiner is encouraged to contact Applicant using the information below. Applicant looks forward to a prompt examination of the merits of this application.

Dated: August 26, 2004

Respectfully submitted,

By 

Chris Tanner

Registration No.: 41,518
Stockwell & Associates, PSC
861 Corporate Drive
Suite 201
Lexington, Kentucky 40503
Customer Number 37468
859.223.3400
Attorneys for Applicant